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February 10, 1994

Mr. William Caton, Acting Secretary
Federal Communications Commission
1919 M St., N.W.
Washington, D.C. 20554

Re: CC Docket No. 93-292

Dear Mr. Caton:

Enclosed for filing in the above-captioned docket, please find an original and five (5) copies of the Reply Comments of the Interexchange Carrier Industry Committee Toll Fraud Subcommittee.

Please date stamp and return one copy to the undersigned.

Sincerely yours,

Douglas F. Brent

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of
Policies and Rules
Concerning Toll Fraud

CC Docket No. 93-292

REPLY COMMENTS OF THE INTEREXCHANGE CARRIER
INDUSTRY COMMITTEE TOLL FRAUD SUBCOMMITTEE

The Interexchange Carrier Industry Committee Toll Fraud Subcommittee ("Toll Fraud Subcommittee" or "TFS") files these reply comments in accordance with the schedule set forth in the Commission's December 2, 1993 Notice of Proposed Rulemaking ("NPRM" or "Notice") in the referenced proceeding. The Toll Fraud Subcommittee's Reply Comments are limited to the issues of pay telephone fraud and "0+" fraud (LIDB issues).

I. PAYPHONE FRAUD.

In its initial comments, the TFS outlined several specific improvements which are needed to control fraud originating from pay telephones. The TFS discussed the need for availability of tariffed screening services on a nationwide basis. The TFS also supported nationwide adoption of uniform ANI information digits for COCOT payphones, as well as for pay telephones located in correctional facilities. The TFS advocated the use of privacy shields to limit shoulder surfing from pay phones, and supported the use of LEC-provided blocking of 10XXX+1 calls in conjunction with "PIC-none" to help control "clip-on" fraud.

In spite of all of the hardware and screening features available to payphone owners, some fraud which is beyond the ability of the IXCs to prevent will still occur. Certain payphone interests would have the Commission completely insulate private payphone owners from all risk and liability associated with payphone fraud. See APCC Comments, p. 24. The Commission should reject such overbroad requests for protection. As the Commission is aware, it is the ability to use public payphones anonymously which makes such phones popular among telecommunications thieves. Business people who decide to enter the pay telephone business must recognize and deal with the risks associated in making network access available to the population at large. The payphone owner is in the best position to evaluate these risks and protect its payphone CPE from manipulation and abuse.

At least one payphone interest discusses how it is impossible to completely prevent "clip-on" fraud. See Florida Pay Telephone Association Comments, p. 4. If "clip-on" fraud cannot be eliminated, it is unreasonable to hold IXCs responsible for fraudulent "1+" and 10XXX+1 calls originating from private pay telephones. This is because IXCs are unable to distinguish legitimate coin sent-paid traffic processed by a COCOT from traffic generated through "clip-on" fraud — both types of traffic utilize the same network dialing patterns. See TFS Comments, p. 8. Equally important, the IXC has no ability to protect LEC or private payphone facilities from "clip-on" fraud.

The TFS also disagrees with those payphone interests who assert IXCs do not have incentives to control international fraud. In particular, the American Public Communications Council ("APCC") and the Independent Payphone Association of New York both make the bold claim that IXCs profit from international fraud originating from or billed to private pay telephone lines. Without support, APCC claims the majority of fraudulent calls from private payphones are international, and that collected revenue for these calls is generally "far in excess of marginal costs, including access costs." APCC Comments, p. 9. The APCC apparently infers that higher international rates produce higher profit margins. However, once international settlement payments are taken into account, profit margins for international calls are not substantially different from the profits on domestic traffic. In any event, APCC is clearly wrong in claiming IXCs "do not lose enough money on toll fraud to give them the kind of incentive that is probably necessary [to solve the fraud problem]." Id. IXCs have every incentive to reduce the amount of international fraud. Not all of these calls are billed to pay telephone lines. A high percentage of fraudulent international calls are billed to LEC joint use calling cards -- IXCs desire to reduce all international fraud, including fraudulent calls billed to private pay telephone lines.

II. **"0+" FRAUD (LIDB ISSUES).**

LIDB is a database created by local exchange carriers. The LIDB databases are interconnected in order to enable LECs to share with each other and with other carriers data on the account status of LEC joint use calling cards, as well as information on line numbers, such as third party billing exceptions. See Local Exchange Carrier Line Information Database, 7 FCC Rcd 525 (Com. Car. Bur. 1991). LIDB is designed to assist all carriers providing alternate billing arrangements to LEC subscribers. From a fraud protection standpoint, LIDB is conceptually superior to the LEC validation service which preceded it, Billing Validation Service ("BVS"). LEC BVS service allowed for bulk purchase of validation data, and real time queries were directed to more than one third party database. In addition, BVS co-existed with another validation application used by the LECs and AT&T. LIDB, which requires all validations for any billing number to route to a single destination, permits the LIDB administrator to monitor activity in real time to prevent fraud. The TFS believes LIDB can be an extremely potent weapon against fraud if:

1. Real time queries are launched for all call attempts a LIDB customer attempts to complete;

2. The calling and called NPA-NXX (and where appropriate the full line numbers) are delivered as part of the LIDB query; and

3. The LIDB providers use real time monitoring to stop calling card and other alternate billing abuse.

In its initial comments, the TFS discussed how aggressive LEC calling card marketing practices create demand for the LIDB services necessary to validate the cards. The TFS discussed how only a card issuer can provide validation information for cards and line numbers it issues. The TFS also discussed how LECs derive substantial revenue for various call types made and charged against calling card accounts. Finally, the TFS illustrated how the lack of significant economic consequences for LIDB administration failures creates serious financial and operational problems for LIDB customers, including TFS members.

Not surprisingly, the LIDB providers generally ask the Commission not to make them responsible for failures to properly support their LIDBs. Disturbingly, the LIDB providers do not even agree among themselves about what LIDB is designed to do. For example, Southwestern Bell and Ameritech claim LIDB is not a fraud prevention service, yet Southern New England Telephone describes LIDB as the "first line of defense to limit fraud". See SWB Comments, p. 11, Ameritech Comments, p. 7, SNET Comments, p. 6. Ameritech's repudiation of its LIDB in this proceeding presents an interesting contrast to Ameritech's LIDB Customer Guide, issued in May 1992, which states "toll fraud protection and reduced call set up expenses are among the many benefits of the [LIDB] service." TFS is concerned that some LIDB providers, confronted with evidence of fraud resulting from poor LIDB performance, are now claiming

LIDB was never intended to prevent fraud anyway![1]

Moreover, none of the LIDB providers acknowledge the link between their calling card marketing practices and the demand for LIDB. For example, Ameritech believes that, in determining liability, the Commission should focus solely on who earns toll revenue from particular calls. In other words, Ameritech believes TFS members accepting Ameritech's calling cards should be solely responsible for fraudulent calls carried on their networks and billed to the Ameritech card. What Ameritech and other LIDB providers ignore is the fact that millions of Ameritech's subscribers choose an Ameritech calling card, forsaking all others at the urging of Ameritech. Accordingly, TFS members have little choice but to accept the Ameritech card, pay Ameritech to validate and bill charges to the card number, and for related access charges. Yet, if the retail toll services provided by a TFS member cannot be collected because of fraud, Ameritech wants to avoid any financial responsibility. Similarly, NYNEX argues existing tariff limits on carrier liability should be applied to LIDB validation service, because no change in conditions has occurred which would

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[1]LIDB customers were not the only commentors to question LEC attempts to avoid responsibility for poor LIDB management. The Pennsylvania Public Utilities Commission's ("PA PUC") comments on LIDB administration are quite instructive. As the Commission stated, "current practices permitting LECs to shield themselves from responsibility for toll losses provide virtually no incentive to the LEC to ensure that LIDB information is both up-to-date and accurate. When credit card fraud is a direct result of LEC negligence, the LEC should be liable for any resulting damage." PA PUC Comments, p. 12.

warrant a change in liability. NYNEX, p. 16. This argument also ignores the link between LIDB demand and calling card marketing – NYNEX's aggressive and effective calling card marketing is clearly a circumstance which should lead to different treatment for fraud losses caused by LIDB administration problems.

Pacific Telesis argues that liability must be commensurate with prevention and reward. See Pacific Comments, p. 8. The TFS agrees. But LIDB providers receive substantial rewards each time an IXC accepts their calling card. These rewards come in the form of access charges, validation charges, and billing and collection charges. If these LEC rewards are put at risk, through fair liability apportionment, the LIDB providers will take steps to improve LIDB administration, subscription guidelines and calling card issuance practices, thereby preventing much fraud while protecting existing LEC revenue.

Fortunately, some LIDB providers appear willing to accept some financial responsibility for fraudulent calls which occur in spite of systematic use of LIDB. For example, BellSouth candidly recognizes its obligation to provide error free LIDB service. See BellSouth Comments, p. 13. According to BellSouth, where LEC errors cause fraud, the IXC should be entitled to reimbursement for the LIDB charges and for access and billing and collection charges. Id. The TFS believes BellSouth's position is clearly a step in the right direction. However, the Commission must recognize that in many cases, a LEC calling card or subscriber line number is used to bill a call yet there are no corresponding carrier access charges from the card issuer or billing LEC. For example, BellSouth's calling card could be used to complete a call originating in New York and terminating in Illinois. In such a case, the majority of LEC costs involved in the call would be for access charges, yet none of the access would have been provided by BellSouth. As another example, when a call terminates internationally, the bulk of IXC expense is for settlement payments to foreign PTT's which have no role in administering any domestic LIDB. Thus, BellSouth's offer to reimburse lost access expenses would not serve as an adequate remedy. In order to give the LIDB providers the incentives they may need to improve subscription practices, calling card issuance guidelines and LIDB administration, the Commission should require LIDB providers to reimburse LIDB customers, including other LECs, the tariffed rates for fraudulent, uncollectible calls which are the result of errors or omissions of the LIDB provider. The purpose of such a rule would not be to shift economic losses, but to motivate the LIDB providers to stop controllable fraud from happening.

GTE also seems ready to accept some liability for fraud related to its LIDB, at least if LIDB users will provide calling and called number on all LIDB queries. As discussed in its initial comments, the TFS supports the provision of calling and called number (or calling and called NPA-NXX) with each LIDB query. TFS agrees with GTE that allocation of liability for fraudulent alternately billed calls should be based on relative negligence. See GTE Comments, p. 21. However, the Commission should reject all LEC suggestions that responsibility for fraud may be properly allocated solely through non-tariffed billing and collection arrangements. E.g., GTE Comments, p. 24. The Commission should also prohibit LECs from recovering their share of fraud responsibility through higher LIDB rates. E.g., GTE Comments, p. 22.

In its comments, GTE points out that it assumes 100% of the fraud losses on intraLATA toll calls. GTE Comments, p. 15. The TFS wonders what GTE's policy is with respect to fraudulent intraLATA calls carried by other LECs and billed to a GTE calling card. For example, if a GTE calling card is used to make an intraLATA call originating and terminating in Pacific Bell territory, which company accepts liability for fraud? The TFS believes the Commission should investigate whether LECs have negotiated liability sharing arrangements with each other outside of the scope of their LIDB access tariffs. If LIDB providers share fraud liability with LECs, they should be required to offer similar protection to their IXC customers.

III. CONCLUSION.

The TFS believes the Commission can accelerate technical solutions to fraud by establishing rules which properly allocate responsibility for toll theft. The Commission should adopt the specific proposals set forth in the Toll Fraud Subcommittee's initial comments.

Respectfully submitted,

THE INTEREXCHANGE CARRIER INDUSTRY COMMITTEE TOLL FRAUD SUBCOMMITTEE

By: ______________________________

Douglas F. Brent
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Louisville, Kentucky 40222

DATED: February 9, 1994

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on those individuals filing initial comments by mailing a copy thereof, this 10th day of February, 1994.

Douglas F. Brent